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TRANSMITTAL FORM

Application Number	09/153,621
Filing Date	September 15, 1998
First Named Inventor	Roger Q. Smith et al.
Art Unit	2841
Examiner Name	T. Dinh
Attorney Docket Number	TN-1444

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

23

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	Black & Decker Inc.		
Signature			
Printed Name	Adan Ayala, Esq.		
Date	June 30, 2005	Reg. No.	38,373

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name	Adan Ayala, Esq.	Date	June 30, 2005

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application of: **Roger Q. SMITH et al.**Serial No.: **09/153,621**Examiner: **T. Dinh**Filed: **September 15, 1998**Group Art Unit: **2841**For: **HEAVY-DUTY AUDIO EQUIPMENT**Assistant Commissioner for Patents
Washington, DC 20231**PETITION TO WITHDRAW**
HOLDING OF ABANDONMENT

I, Adan Ayala, Reg. No. 38,373, certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

June 30, 2005
Adan Ayala

Dear Sir:

In response to the Notice of Abandonment mailed June 27, 2005, Applicants hereby request the withdrawal of the holding of abandonment on the above-identified application pursuant to 37 CFR § 1.181(a) and MPEP § 711.03(c).

The Examiner has held that the present application has become abandoned because a response to the Office Action mailed on October 4, 2004 was not received. Applicants respectfully disagree because a response to the Office Action was timely filed with the Patent Office.

In particular, a Notice of Appeal was filed on October 11, 2004. This filing in turn required the filing of an Appeal Brief by December 11, 2004.

Applicants hereby attach a copy of the Appeal Brief mailed December 10, 2004 mailed in response of the Office Action. Under 37 CFR § 1.8(a)(1), correspondence required to be filed in the PTO within a set period of time is considered timely filed if (a) the correspondence is mailed as first class mail prior to expiration of the set period for response and (b) the correspondence includes a signed certificate stating the date of deposit.

In the present case, the Appeal Brief was mailed as first class mail on December 10, 2004. This was before the expiration of the period set for filing a response. Second, Applicants' attorney signed a certificate stating the date of deposit, i.e., December 10, 2004, as shown on the actual Brief. Accordingly, the requirements of § 1.8(a)(1) have been met. Therefore, the Appeal Brief must be considered timely filed and the holding of abandonment must be withdrawn.

Furthermore, Applicants note that the provisions of 37 CFR of § 1.8(b) apply to the present case. According to the rules, if the correspondence is considered timely filed under § 1.8(a) but was not received in the PTO, and the application is held to be abandoned, the correspondence will be considered timely if "the party who forwarded such correspondence: (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing."

In the present case, Applicants are presently informing the Office of the previously-filed Appeal Brief promptly after becoming aware that the Office did not receive the correspondence. In particular, the Examiner made Applicants' attorney aware of the lack of

receipt on June 22, 2005. On that date, Applicants' attorney informed the Examiner that an Appeal Brief was mailed on December 10, 2004. Based on the discussions with the Examiner, Applicant's attorney agreed to wait for the Examiner's Notice of Abandonment before filing the present Petition. The present petition is being filed within two weeks from June 22, 2005 and less than one week from the Notice of Abandonment. Accordingly, Applicants have promptly informed the Office of the previously-filed Appeal Brief.

As to the second requirement under § 1.8(b), Applicants have attached a copy of the previously-filed Appeal Brief, as discussed above.

Finally, Applicants' attorney hereby attests on a personal knowledge basis that the Appeal Brief was timely mailed on December 10, 2004.

Because all the requirements of 37 CFR § 1.8(b) have been met, the Appeal Brief should be considered timely filed.

Finally, the Applicants respectfully traverse the Examiner's reason for the holding of abandonment. According to the Examiner, the reason for such holding was the "interview with Mr. Adan Ayala on June 22, 2005 that the applicant fails to timely response or file the appeal brief over 8 months." The Examiner is misunderstanding the statements of the Applicants' attorney. What the Applicants' attorney said during the interview was that (a) an Appeal Brief was timely filed on December 10, 2004, but (b) Applicants did not have a postcard stamped by the PTO to prove receipt by the Office. Such statements cannot be interpreted to mean that Applicants failed to timely file the Appeal Brief.

No fee is due under the present petition. *See* MPEP § 711.03(c)(I) ("a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment ... does not require a fee."). Nevertheless, the Commissioner is hereby authorized to charge payment

of any fees due in processing this petition, or credit any overpayment to Deposit Account
No. 02-2548.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Adan Ayala', written over a horizontal line.

Adan Ayala
PTO Reg. No. 38,373
Attorney for Applicant

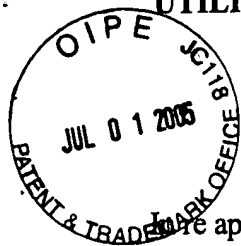
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UTILITY PATENT

B&D No. P-US-TN1444

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BOARD OF PATENT APPEALS AND INTERFERENCES



Re application of: **Roger Q. SMITH et al.**

Serial No.: **09/153,621**

Examiner: **T. Dinh**

Filed: **September 15, 1998**

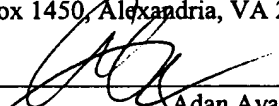
Group Art Unit: **2841**

For: **HEAVY-DUTY AUDIO EQUIPMENT**

Assistant Commissioner for Patents
Washington, DC 20231

APPEAL BRIEF

I, Adan Ayala, Reg. No. 38,373, certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on Dec. 10, 2004



Adan Ayala

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UTILITY PATENT

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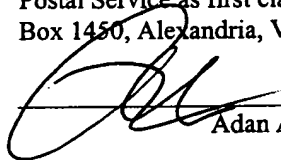
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Assistant Commissioner for Patents
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APPEAL BRIEF

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Adan Ayala

Dear Sir:

I. INTRODUCTION

A final Office Action was mailed on October 4, 2004. In response to such Office Action, a Notice of Appeal was mailed on October 11, 2004, for the above-identified application. The present appeal brief is being timely filed as required under 37 CFR § 41.37.

II. REAL PARTY IN INTEREST

The real party in interest in the present case is Black & Decker Inc. An assignment transferring all rights to the present application and resulting patents was filed in the present application. The assignment was recorded on November 2, 1998 and can be found at Reel 9560, Frame 0625.

III. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences related to the present case are currently pending.

IV. STATUS OF CLAIMS

Claims 1-6 and 15-20 are currently pending in the present application.

Claims 1-6 are rejected and are presently appealed.

V. STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final Office Action.

VI. SUMMARY OF CLAIMED SUBJECT MATTER

Pursuant to 37 CFR § 41.37 and MPEP § 1206, Applicant/appellant hereby provides a concise explanation of the inventions defined in the claims involved in the present appeal. This explanation refer to the specification by page and line number and to the drawings, as required by the CFR and the MPEP rules. However, the following explanation only refers to the embodiments disclosed in the specification and does not discuss alternative mechanisms that would be covered by the claims. Accordingly, the following explanation should not be used to limit the scope of the claims.

Independent Claim 1 calls for an audio equipment 10 comprising a housing 11 and an audio circuitry installed within the housing 11. Spec., p. 2, lns. 16-18. The audio equipment 10

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B&D No. P-US-TN1444

also comprises a first protective bar 20 flexibly connected to the housing 11. Spec., p. 3, lns. 12-13.

Claims 2-6 are ultimately dependent upon Claim 1.

VII. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether Claims 1-6 are anticipated under 35 USC § 102(b) over US Patent No. 4,480,809 ("Healey").

VIII. ARGUMENT

Claims 1-6 are Patentable under 35 USC § 102(b) Over Healey.

The Board should reverse the Examiner's improper final rejection of Claims 1-6 under 35 USC § 102(b) based on Healey, as Healey does not disclose all the claimed elements.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In the present case, Healey fails to disclose at least two of the claimed elements.

Claim 1 calls for an audio equipment comprising a housing, an audio circuitry installed within the housing, and a first protective bar flexibly connected to the housing. Claims 2-6 are ultimately dependent upon Claim 1.

Admittedly, Healy discloses a fishfinder including a housing containing sonar circuitry, and that the housing is connected to a base 14. However, Healy does not disclose any audio

circuitry. In addition, Healy does not disclose a first protective bar flexibly connected to the housing.

Applicants/Appellant will address each failure in separate sections.

A. Healey does not Disclose any Audio Circuitry.

In the Office Actions, the Examiner admitted that no audio circuitry was shown in Healey. Instead, the Examiner noted that the audio circuitry is inherent to the sonar.

It is true that an inherent disclosure of a prior art reference may be relied upon in the rejection of claims under 35 USC § 102(b). MPEP § 2112, at 2100-53 (8th ed., rev. 2, May 2004). However, to establish inherence, “the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.’” *In re Robertson*, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). Accordingly, “the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). However, the fact that a certain characteristic may be present in the prior art is not sufficient to establish the inherence of that characteristic. *In re Rikckaert*, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

In other words, the Examiner must show that audio circuit is necessarily found in all fishfinders circa 1982, i.e., the filing date of Healy. Why in all fishfinders? Because if the feature is not present in all fishfinders, then the feature is not necessarily present in fishfinders,

and thus cannot be considered inherent to fishfinders. In addition, the Examiner must show that the audio circuitry is necessarily within the housing, rather than outside of the housing.

Rather than provide such proof, the Examiner argued that Healey discloses an instrument, which, according to Webster's, means "a device to product/perform [sic] a music," which necessitates some audio circuitry to produce the sounds or music. In other words, the Examiner is alleging that the Healey fishfinder is a musical instrument. Applicant/Appellant believes such inferential leap is invalid.

Attached as Appendix B is a print-out of the definition of "thermometer" according to the Merriam-Webster's Online Dictionary (www.m-w.com). Webster's defines "thermometer" as "an instrument for determining temperature..." According to the Examiner's logic, a thermometer is thus an instrument which must produce or perform music, thus necessitating audio circuitry. Applicant/Appellant does not deny that a musical thermometer or a thermometer with an audio card could exist. However, such interpretation would exclude the typical glass-and-liquid thermometer. Accordingly, not all "instruments" have audio circuitry. Therefore, it cannot be assumed that a fishfinder "instrument" necessarily has audio circuitry.

Because the Examiner has not provided any proof that a fishfinder necessarily has audio circuitry, such feature is not inherent on the Healey device. Therefore, the Board should find that the rejection based on Healey is improper.

B. Healey does not Disclose any Protective Bar.

The Examiner has alleged that Healey's bracket 12/base 14 is the protective bar called for in Claim 1. Such interpretation is incorrect.

As discussed in the specification, the protective bar is provided to protect the housing from being destroyed at a jobsite because of: (1) tools being dropped on the housing; or (2) the radio falling down.

In Healy, however, the base does not serve to protect the housing. For example, Applicants/Appellant notes base 14, which is part of bracket 12, is "adapted to rest on a support surface or be affixed to a support surface such as a portion of a boat or the like." Healy, col. 2, lns. 19-22. In other words, the base 14 only serves to support the fishfinder in place. Therefore, the bracket 12/base 14 is not a "protective bar" as called for in Claim 1. Thus, Healy cannot anticipate Claim 1 and its dependent claims.

C. The Healey Base is not Flexibly Connected to the Housing.

Assuming, *arguendo*, that bracket 12/ base 14 is the protective bar called for in Claim 1, such base is not flexibly connected to the housing as claimed.

Such arrangement is critical and advantageous, as evidenced by the attached declaration of Michael L. O'Banion, a person of ordinary skill in the art (attached hereto as Appendix C), which was previously filed in the present case. Such declaration has been considered and not impeached or discredited by the Examiner.

As discussed in the specification, the protective bar is flexibly connected to the housing for at least partially absorbing the shock occurring from: (1) tools being dropped on the housing; or (2) the radio falling down.

According to Healy, housing 10 has a trunnion 26 which receives resilient washer 30. A knob 34 has a screw 36 threadingly engaged to trunnion 26. A second resilient washer 38 is

UTILITY PATENT

B&D No. P-US-TN1444

disposed between knob 34 and base 14, which is part of bracket 12. Accordingly, base 14 is sandwiched between resilient washers 30, 38, as shown in FIG. 2 of Healey. To fix the angular position of housing 10 relative to base 14, knob 34 is tightened, compressing washers 30, 38, which provide enough friction accordingly.

Because of this compression, base 14 is not flexibly connected to the housing. This is because the washers 30, 38 are so compressed that they cannot absorb any shock force occurring from: (1) tools being dropped on the housing; or (2) the housing falling down. This is not surprising, as none of these occurrences would occur on a sport fishermen's boat, as construction tools are not carried in a boat and the fishfinder is likely to be bolted onto the boat, as disclosed in Healy. Accordingly, the Healy device would not require a protective bar flexibly connected to the housing.

By contradistinction, Claim 1 requires "a first protective bar flexibly connected to the housing."

The Examiner has responded without any evidence that "upstanding portions (16) [are] one of a protective bar flexibly connected (34) to a sidewall (24) of a housing (10)." The Examiner has not provided any evidence as to how such flexible connection is achieved, or even addressed Mr. O'Banion's comments.

Based on the non-disclosure of a flexible connection, as well as the uncontroverted declaration of Mr. O'Banion, Healy does not teach or suggest a flexible connection between the base 14 and the housing 10. Therefore, Healy cannot anticipate Claim 1. Accordingly, Applicant/Appellant urges the Board to reverse the Examiner's rejection.

IX. APPENDICES

Applicants/Appellant has attached three appendices: (a) Appendix A--a copy of the claims involved in the appeal; (b) Appendix B--a copy of the definition "thermometer" according to the Webster's Third New International Dictionary; and (c) Appendix C—a copy of the declaration of Michael L. O'Banion, which was previously filed in the present case.

X. CONCLUSION

Based on the foregoing, Applicant/appellant urges the Board to rule that Claims 1-6 are patentable over Healy.

Respectfully submitted,



Adan Ayala
PTO Reg. No. 38,373
Attorney for Applicant/appellant

Appendices attached

APPENDIX A

1. An audio equipment comprising:

a housing;

an audio circuitry installed within the housing; and

a first protective bar flexibly connected to the housing.

2. The equipment of Claim 1, further comprising a handle attached to the first protective bar.

3. The equipment of Claim 1, further comprising a connector assembly flexibly connecting the first protective bar to the housing.

4. The equipment of Claim 3, wherein the connector assembly comprises a flexible gasket.

5. The equipment of Claim 4, wherein the flexible gasket is disposed between the first protective bar and the housing.

6. The equipment of Claim 1, further comprising a second protective bar flexibly connected to the housing.



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Merriam-Webster Inc.
Company information

Merriam-Webster Online Dictionary

2 entries found for **thermometer**.
To select an entry, click on it.

thermometer
clinical thermometer

Go

Main Entry: **ther·mom·e·ter**

Pronunciation: th&(r) - 'mā-m&-t&r

Function: *noun*

Etymology: French *thermomètre*, from Greek *thermE* heat + French -o- + -mètre -meter -- more at **THERM**

: an instrument for determining temperature consisting typically of a glass bulb attached to a fine tube of glass with a numbered scale and containing a liquid (as mercury or colored alcohol) that is sealed in and rises and falls with changes of temperature

- **ther·mo·met·ric** /'th&r-m&- 'me-trik/ *adjective*

- **ther·mo·met·ri·cal·ly** /-tri-k(&-)lE/ *adverb*

For **More Information on "thermometer"** go to **Britannica.com**

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Thesaurus

Merriam-Webster

Dictionary

Thesaurus



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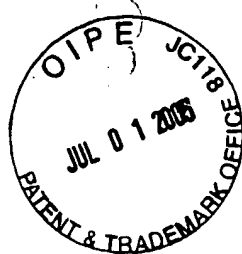
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APPENDIX C

Docket No. P-US-TN-1444

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Roger Q. SMITH et al.**

Serial No.: **09/153,621**

Examiner: **T. Dinh**

Filed: **September 15, 1998**

Group Art Unit: **2841**

For: **HEAVY-DUTY AUDIO EQUIPMENT**

DECLARATION OF MICHAEL L. O'BANION
UNDER 37 CFR § 1.132

Hon. Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

I, Michael L. O'Banion, depose and state that:

1. I am a citizen of the United States of America residing at 1230 Canon Way, Westminster, MD 21157.
2. In 1969, I began working for the Black & Decker Corporation (hereinafter "Black & Decker") as a Development Engineer, and my present title is Director of Innovation.
3. Black & Decker has been and continues to be recognized as a major supplier of power tools and products to be used in construction jobsites.
4. During the entire course of my work, I have designed power tools and products to be used in construction jobsites.

5. Over the years and in the course of my work in this field, I have had direct contact with workers at construction jobsites and consider that I have gained a significant amount of knowledge relating to the design requirements for power tools and products to be used in construction jobsites.

6. I have been named as inventor or co-inventor in at least 45 US utility patents relating to power tools and products to be used in construction jobsites.

7. I like to fish as a hobby. Accordingly, I have owned, used or had access to fishing equipment, including sonar-based fish indicators, for at least 20 years.

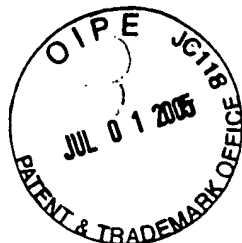
8. I have reviewed the invention of Claim 1 of the present application ("the Claimed Invention"), as well as US Patent No. 4,480,809 ("Healy"). Based on my experience, it is my belief that the arrangement of the Claimed Invention is novel and advantageous over the arrangement shown in Healy.

9. Any power tool or product intended to be used in a construction jobsite has to be relatively tough in order to survive the jobsite conditions. These conditions include other tools being dropped on the product, or the product itself falling down.

10. The Claimed Invention achieves such requirements by having a protective bar which is flexibly connected to the housing. Such flexible connection at least partly absorbs any shock forces occurring from: (1) tools being dropped on the housing; or (2) the radio falling down.

11. On the other hand, Healy discloses a mechanism for easily removing a fish finder housing from a base attached to a boat, and for fixing the angular position of the fish finder housing relative to the base. In this arrangement, housing 10 has a trunnion 26 which receives resilient washer 30. A knob 34 has a screw 36 threadingly engaged to

PATENT



Docket No. P-US-TN-1444

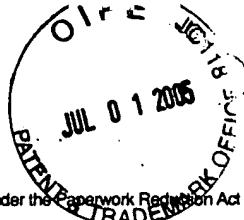
trunnion 26. A second resilient washer 38 is disposed between knob 34 and base 14. Accordingly, base 14 is sandwiched between resilient washers 30, 38, as shown in FIG. 2 of Healey. To fix the angular position of housing 10 relative to base 14, knob 34 is tightened, compressing washers 30, 38, which provide enough friction accordingly.

12. Because of this compression, base 14 is not flexibly connected to the housing. This is because the washers 30, 38 are so compressed that they cannot absorb any shock force occurring from: (1) tools being dropped on the housing; or (2) the housing falling down. This is not surprising, as none of these occurrences would occur on a sport fishermen's boat, as construction tools are not carried in a boat and the fishfinder is likely to be bolted onto the boat.

13. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 6 Sep 2002


Michael L. O'Banion



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/153,621	
	Filing Date	September 15, 1998	
	First Named Inventor	Roger Q. Smith et al.	
	Art Unit	2841	
	Examiner Name	T. T. Dinh	
Total Number of Pages in This Submission	12	Attorney Docket Number	TN-1444

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Firm or Individual name	Adan Ayala, Esq.
Signature	
Date	December 10, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Adan Ayala, Esq.		
Signature		Date	December 10, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500

Complete If Known

Application Number 09/153,621
 Filing Date September 15, 1998
 First Named Inventor Roger Q. Smith et al.
 Examiner Name T. T. Dinh
 Art Unit 2841
 Attorney Docket No. TN-1444

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None
 Order

☒ Deposit Account:

Deposit Account Number 02-2548

Deposit Account Name Black & Decker (U.S.) Inc.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments
☐ Charge any additional fee(s) or any underpayment of fee(s)
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$ 0)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
-20 **	= 0	X	= 0
Independent Claims	-3 **	= 0	X
Multiple Dependent		X	= 0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$ 0)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	500
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	685	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 500)

SUBMITTED BY

Name (Print/Type)

Adan Ayala, Esq.

Registration No. (Attorney/Agent)

38,373

Telephone

410-716-2368

Signature

Date

December 10, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Kindly acknowledge receipt of the items marked (x). Please date stamp and return.

Applicant.

Knowledge receipt of the items marked (x)
Smith et al

Serial No. _____

09/153,621

Amendment

Amendment
Abandon/Application*

Assignment

Cert. Priority Doc.

Statement of Use

Specimens (3)

Drawings Sheets

**Drawings —
Appeal/Brief**

Info. Disclosure Statement

Issue Fee Transmittal

Missing Parts

Extension of Time

Transmittal Letter in trip/dup.

Check for \$

Other:

Other: Permit
Permittal form
for Permittal (X)

Free Transmittal (X)
and un/signed Declaration.

and un/signed Declaration.

*Specification has 10 pages, including 1 claims, and un/signed Declaration.

Attorney

ation has _____ pages, including _____ claim

Adar Ayala

Docket No.

TN-1444

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